

Main tax measures of the 2021 Spanish Government Budget Bill

Diego Martín-Abril y Calvo

Of Counsel, Gómez-Acebo & Pombo

Pilar Álvarez Barbeito

Associate Professor of Financial and Tax Law, Universidad de La Coruña
Academic counsel, Gómez-Acebo & Pombo

Analysis of the main tax measures incorporated into the 2021 Spanish Government Budget Bill, adopted by the Cabinet on 27 October.

On 27 October 2020, the Cabinet approved the 2021 Spanish Government Budget Bill, a text in which various tax-related measures were introduced, including the following:

For the purposes of **Personal Income Tax**, the following amendments to the text of its law are envisaged:

- In order to raise the *tax on the highest income*, with effect from 1 January 2021 and for an indefinite period of time, there is an amendment of both Art. 63(1) - raising by two percentage points the tax rate to be applied on the general tax base, as of EUR 300,000 - and Arts. 66 and 76 of the Personal Income Tax Act - so that as of EUR 200,000 a tax rate of 26% will be applied to savings-

Along the same lines, the scales of tax rates applicable to so-called “impatriates” (Art. 93(2)(e) and (f)) are modified so that a tax rate of 47% - as opposed to the 45% currently in force - will be applied as of EUR 600,000 euros of tax base, establishing also in this case the rate of 26% to be applied on the savings tax base.

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In addition, and in line with the above changes, the scale of withholdings and payments on account applicable to recipients of earnings from employment, provided for in Art. 101(1), is altered.

- Also relevant is the planned change to the limits on the reduction in the tax base of *contributions to social security systems* – Art. 51(5) and (7) - providing that the total of reductions made by all persons who pay premiums in favour of the same contributor, including those of the contributor himself, may not exceed EUR 2,000 per annum, except for the amendment of Art. 52 of the Law, which increases this limit by EUR 8,000 - thus raising it to EUR 10,000 - provided that such an increase comes from employers' contributions.
- Inclusion is also made of an extension for 2021 of the quantitative limits that delimit - transitory provision thirty-two - the scope of application of the *standard presumptive determination method*, with the exception of agricultural, livestock and forestry activities, which have their own quantitative limit by volume of revenue.

In the area of **Corporate Income Tax**, where very important changes are planned, we highlight the following:

- The exemption and elimination of international economic double taxation on dividends or other distribution of profits and on income deriving from the transfer of holdings in the capital or equity of an entity with an acquisition value of more than EUR 20 million is abolished, with the aim of limiting the application of these measures exclusively to situations in which there is a holding of at least 5%, with a transitory arrangement for a period of five years, to which a new transitory arrangement of forty years is added.
- In line with the above, in relation to the limitation on the deductibility of financing costs, Art. 16(1) of the Corporate Income Tax Act is amended by removing the addition to operating profit of financial revenue from equity investments that relate to dividends when the acquisition value of such investments exceeds EUR 20 million.
- Art. 21 is amended so that dividends and income earned from the transfer of holdings, to which the exemption regulated in the article applies, will be reduced by 5 per cent on account of management expenses relating to such holdings. Therefore, the amount which shall be exempt shall be 95% of said dividend or income. In the tax consolidation scheme, this 5% exemption reduction is not eliminated, and therefore the dividends and income indicated, intra-group, will also be subject to taxation (generally at 1.25%)

However, and although it will be of very limited application in practice, in order to allow the growth of companies with a net turnover of less than EUR 40 million and which are not part of a commercial group, such taxpayers will not apply the reduction in the exemption for dividends referred to above, for a period limited to three years, when such dividends come from a subsidiary, resident or not in Spanish territory, established after 1 January 2021.

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- Similarly, Art. 32, regulating the elimination of international economic double taxation on dividends from entities not resident in Spanish territory, is amended to provide that management expenses relating to the holding in the subsidiary company are not deductible from the taxable profit of the parent company, being fixed at a flat rate without, in this case, their amount exceeding 5% of the profits distributed by the subsidiary company.

For reasons of systematics, this measure is planned for those other provisions of the Corporate Income Tax Act which also eliminate double taxation in the receipt of dividends or distributions of profits and income derived from the transfer.

In relation to **Non-Resident Income Tax**, Art. 14 of the Recast Version of the Non-Resident Income Tax Act is amended for the following purposes:

- Paragraph (1)(c) thereof, to adjust the exemption for interest and other earnings from the transfer to third parties of own capital, as well as the capital gains derived from personal property obtained without mediation of a permanent establishment, to the provisions of the Agreement on the European Economic Area, so that the States that are parties to the aforementioned Agreement may benefit from the exemption in the same way as the Member States of the European Union, provided that there is an effective exchange of tax information.
- Paragraph (1)(h) thereof, to amend the exemption relating to profits distributed by subsidiary companies resident in Spanish territory to their parent companies resident in other Member States of the European Economic Area or to the permanent establishments of the latter located in the European Economic Area. For these purposes - in line with the amendments made to the Corporate Income Tax Act and taking into account the transitory rules laid down in a new second transitory provision - the possibility of accessing the exemption is eliminated when the acquisition value of the shareholding exceeds EUR 20 million, with the requirement of a direct and indirect shareholding of at least 5%, provided that the other conditions established in the recast version of the tax's statute are met.

In the context of **Wealth Tax**, it is worth noting the amendment of Art. 30 of the Wealth Tax Act, to raise the tax rate applicable to the last bracket - more than EUR 10 million - to 3.5%.

With regard to **Value Added Tax**, the following is worth noting:

- As with the measure adopted for personal income tax purposes in respect of the quantitative limits defining the scope of the standard presumptive determination method, the thirteenth transitory provision of the Value Added Tax Act is amended to extend the limits laid down for the application of the simplified scheme and the special scheme for agriculture, livestock farming and fisheries.

- The tax rate applicable to beverages containing added natural and derived sweeteners and/or sweetening additives is amended, except for baby milk and beverages considered as food supplements for special dietary needs, which are now taxed at the general rate of 21 per cent.

In the area of **Transfer Tax**, Art. 71 of the Transfer Tax Act is amended to update the scale of taxation of nobility and grandee titles by 2%.

From the perspective of Excise Duties, in addition to some changes provided for in the field of the Excise Duty on Electricity, an increase of taxation with respect to diesel is provided for in the **Hydrocarbons Tax**.

In addition, an increase of the tax rate on **insurance premiums** from 6% to 8% is provided for.

In relation to the **Business Activity Tax**, new headings or groups are created in the Tariffs for the activities of marketing supplies of a general nature (electricity and gas); large commercial premises not mainly devoted to clothing or food; and for the new activity of supplying energy to electric vehicles through charging points installed in any location.

Default interest for 2021 remains at 3.75 per cent.

Finally, several changes are introduced with respect to **fees**, such as that entailing an increase of 1% in the amount to be required for those of a fixed amount, except in cases such as those of the fees that have been specifically created or updated by legislation passed since 1 January 2019 or the fees on gambling, included in Royal Decree-law 16/1977 of 25 February. In addition to the above, specific provisions are made for, inter alia, fees for publicly-owned radio, railway and port reservations.